## House File 844 - Introduced

HOUSE FILE BY COMMITTEE ON STATE GOVERNMENT (SUCCESSOR TO HF 544) Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_ Vote: Ayes \_\_\_\_ Nays \_\_\_\_ A BILL FOR 1 An Act relating to inspection of absentee ballot affidavit 2 envelopes by the county commissioner of elections. 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA: 4 TLSB 1851HV 82 5 sc/cf/24 PAG LIN Section 1. Section 53.10, unnumbered paragraph 2, Code 2 2007, is amended to read as follows: Each person who wishes to vote by absentee ballot at the 4 commissioner's office shall first sign an application for a 5 ballot including the following information: name, current 6 address, and the election for which the ballot is requested. 7 The person may report a change of address or other information 1 8 on the person's voter registration record at that time. The 1 9 registered voter shall immediately mark the ballot; enclose 1 10 the ballot in a secrecy envelope, if necessary, and seal it in 11 a ballot an affidavit envelope; subscribe to the affidavit on 12 the reverse side of the envelope; and return the absentee 1 13 ballot to the commissioner. The commissioner shall record the 1 14 numbers appearing on the application and ballot affidavit 1 15 envelope along with the name of the registered voter.
1 16 Sec. 2. Section 53.18, Code 2007, is amended to read as 1 16 1 17 follows: 1 18 18 53.18 MANNER OF PRESERVING BALLOT AND APPLICATION == 19 REVIEW OF AFFIDAVIT == REPLACEMENT BALLOTS. 1 20 <u>1.</u> <del>Upon receipt of When the return carrier envelope</del> <u>containing</u> the <u>completed</u> absentee ballot <u>is received by the</u> 22 commissioner, the commissioner shall at once record the number 1 23 appearing on the application and return carrier envelope and <del>1 24 time of</del> receipt of such ballot <del>and attach the elector's</del> 1 25 application to the unopened envelope. Absentee ballots shall 1 26 be stored in a secure place until they are delivered to the 1 27 absentee and special voters precinct board. 1 28 <u>2. If the commissioner receives the return carrier</u> envelope containing the completed absentee ballot by five p.m. 30 on the Saturday before the election for general and primary 31 elections and by five p.m. on the Friday before the election 32 for all other elections, the commissioner shall open the 33 envelope to review the affidavit for any deficiencies. If 34 affidavit contains a deficiency that would cause the ballot to 35 be rejected, the commissioner shall, within twenty=four hours 1 of the time the envelope was received, notify the voter of 2 that fact and that the voter may correct the deficiency by 3 five p.m. on the day before the election.
4 3. If the affidavit envelope is open when received by the 5 commissioner, or has been opened and resealed, or if the 6 ballot is not enclosed in the affidavit envelope, the 7 commissioner shall immediately notify the voter of that fa 8 and that the voter's absentee ballot shall not be counted 9 unless the voter applies for a replacement ballot and returns 10 the replacement ballot in the time permitted under section 11 53.17, subsection 2. The replacement ballot application shall 12 be the same as is required for an application under section 13 53.2. If the information on the replacement ballot 14 application matches the information on the original 2 15 application, the voter shall be allowed to complete a
2 16 replacement absentee ballot. The same serial number that was

17 assigned to the records of the original absentee ballot

18 application shall be used on the envelope and records of the 19 replacement ballot. The affidavit envelope containing the 20 completed replacement ballot shall be marked "Replacement 21 ballot". The affidavit envelope containing the original 22 ballot shall be marked "Defective ballot" and the replacement 23 ballot and replacement ballot application shall be attached to 24 the original application and affidavit envelope containing the 25 original ballot and shall be stored in a secure place until 26 they are delivered to the absentee and special voters precinct 27 board, notwithstanding sections 53.26 and 53.27. 4. The state commissioner of elections shall adopt rules for implementation of this section. 2 30 Sec. 3. Section 53.19, unnumbered paragraph 3, Code 2007, 2 31 is amended to read as follows: However, any registered voter who has received an absentee 33 ballot and not returned it may surrender the absentee ballot 34 to the precinct officials and vote in person at the polls. 35 The precinct officials shall mark the uncast absentee ballot 1 "void" and return it to the commissioner. Any registered 2 voter who has been sent an absentee ballot by mail but for any 3 reason has not received it or who has not brought the ballot 4 to the polls may appear at the voter's precinct polling place 5 on election day and shall cast a ballot in accordance with 6 section 49.81. Any registered voter who has been notified by 7 the commissioner pursuant to section 53.18 of the need to 8 correct a deficiency on the affidavit or to apply for and vote 9 a replacement absentee ballot and who has not corrected the 10 deficiency or voted a replacement absentee ballot may appear at the voter's precinct polling place on election day and shall cast a ballot in accordance with section 49.81. Sec. 4. Section 53.21, unnumbered paragraph 4, Code 2007, 3 14 is amended to read as follows: 3 15 The voter shall enclose one copy of the above statement in 3 16 the return carrier envelope with the ballot affidavit envelope 3 17 and retain a copy for the voter's records. Sec. 5. Section 53.23, subsection 3, Code 2007, is amended 3 19 to read as follows: 3 20 3. <u>a.</u> The commissioner shall set the convening time for 3 21 the board, allowing a reasonable amount of time to complete 3 22 counting all absentee ballots by ten p.m. on election day. 23 The commissioner may direct the board to meet on the day 24 before the election solely for the purpose of reviewing the 3 25 absentee voters' affidavits appearing on the sealed ballot 26 <u>affidavit</u> envelopes. If in the commissioner's judgment this 3 27 procedure is necessary due to the number of absentee ballots 3 28 received, the members of the board may open the sealed ballot 3 29 <u>affidavit</u> envelopes and remove the secrecy envelope containing 30 the ballot, but under no circumstances shall a secrecy 31 envelope be opened before the board convenes on election day. 32 If the ballot affidavit envelopes are opened before election 33 day, two observers, one appointed by each of the two political 34 parties referred to in section 49.13, subsection 2, shall 3 35 witness the proceedings. 4 b. If the board finds any ballot not enclosed in a secrecy 4 envelope and the ballot is folded in such a way that any of the votes cast on the ballot are visible, the two special 4 4 precinct election officials, one from each of the two 5 political parties referred to in section 49.13, subsection 2, 6 shall place the ballot in a secrecy envelope. No one shall 7 examine the ballot. Each of the special precinct election 8 officials shall sign the secrecy envelope. 4 4 Sec. 6. Section 53.24, Code 2007, is amended to read as 4 10 follows: 4 11 53.24 COUNTIES USING VOTING MACHINES. 4 12 In counties which provide the special precinct election 4 13 board with voting machines, the absentee ballot affidavit 4 14 envelopes shall be opened by the board and the ballots shall, 4 15 without being unfolded, be thoroughly intermingled, after 4 16 which they shall be unfolded and, under the personal 4 17 supervision of precinct election officials of each of the 4 18 political parties, be registered on voting machines the same 19 as if the absent voter had been present and voted in person, 4 20 except that a tally of the write in votes may be kept in the 21 tally list rather than on the machine. When two or more 22 political subdivisions in the county are holding separate 23 elections simultaneously, the commissioner may arrange the 4 24 machine so that the absentee and provisional ballots for more 25 than one election may be recorded on the same machine. Section 53.25, Code 2007, is amended to read as 26 Sec. 7. 4 27 follows: 4 28

53.25 REJECTING BALLOT.

4 2.9 In case If the absentee voter's affidavit is found to be 4 30 insufficient, or that if the applicant is not a duly 4 31 registered voter in such precinct, or that the ballot envelope is open, or has been opened and resealed, or that if the 4 33 <del>ballot</del> <u>affidavit</u> envelope contains more than one ballot of any 4 34 one kind, or that said if the voter has voted in person, such 4 35 vote shall not be accepted or counted. If the affidavit envelope is open, or has been opened and resealed, or if 2 ballot is not enclosed in the affidavit envelope, and an 3 affidavit envelope with the same serial number and marked 4 "Replacement ballot" is not attached as provided in section 5 53.18, the vote shall not be accepted or counted. If the absentee ballot is rejected prior to the opening of 7 the <u>ballot affidavit</u> envelope, the voter casting the ballot 8 shall be notified by a precinct election official by the time 9 the canvass is completed of the reason for the rejection on a 5 10 form prescribed by the state commissioner of elections. 5 11 Sec. 8. Section 53.27, Code 2007, is amended to read as 5 12 follows: 5 13 REJECTION OF BALLOT == RETURN OF ENVELOPE. 53.27 5 If the ballot is rejected, said ballot the affidavit 5 15 envelope, with the affidavit of the voter endorsed thereon, 5 16 shall be returned with said the rejected ballot in the 5 17 envelope endorsed "Defective ballots". 5 18 Section 53.32, Code 2007, is amended to read as Sec. 9. 5 19 follows: 5 20 53.32 BALLOT OF DECEASED VOTER. When it shall be made to appear by due proof to the 5 5 22 precinct election officials that any elector, who has so 5 23 marked and forwarded a ballot, has died before the ballot 5 24 affidavit envelope is opened, then the ballot of such deceased 5 25 voter shall be endorsed, "Rejected because voter is dead", and 26 be returned to the commissioner; but the casting of the ballot 27 of a deceased voter shall not invalidate the election. 5 28 Sec. 10. Section 53.38, Code 2007, is amended to read as 5 29 follows: 3.0 53.38 WHAT CONSTITUTES REGISTRATION. 5 Whenever a ballot is requested pursuant to section 53.39 or 32 53.45 on behalf of a voter in the armed forces of the United 5 33 States, the affidavit upon the <del>ballot</del> <u>affidavit</u> envelope of 34 such voter, if the voter is found to be an eligible elector of 35 the county to which the ballot is submitted, shall constitute 5 1 a sufficient registration under chapter 48A. A completed 6 2 federal postcard registration and federal absentee ballot 6 3 request form submitted by such eligible elector shall also 4 constitute a sufficient registration under chapter 48A. The 6 6 5 commissioner shall place the voter's name on the registration 6 6 record as a registered voter if it does not already appear 6 there. 6 8 Sec. 11. Section 53.40, unnumbered paragraph 5, Code 2007, 6 9 is amended to read as follows: 6 10 If the affidavit on the ballot affidavit envelope shows 6 11 that the affiant is not a qualified voter on the day of the 6 12 election at which the ballot is offered for voting, the 6 13 envelope shall not be opened, but the envelope and ballot 6 14 contained in the envelope shall be preserved and returned by 6 15 the precinct election officials to the commissioner, who shall 16 preserve them for the period of time and under the conditions 6 6 17 provided for in sections 50.12 through 50.15 and section 6 18 50.19. Sec. 12. 6 19 Section 53.44, unnumbered paragraph 1, Code 2007, 20 is amended to read as follows: 6 6 21 The affidavit on the <u>affidavit</u> envelope used in connection 6 22 with voting by absentee ballot under this division by members 23 of the armed forces of the United States need not be notarized 6 24 or witnessed, but the affidavit on the ballot such envelope 6 25 shall be completed and signed by the voter. 6 26 EXPLANATION This bill requires the county commissioner of elections to 6 27 6 28 open the absentee ballot return carrier envelope in order to 29 inspect the affidavit on the affidavit envelope containing the 6 30 ballot. If there is a deficiency in the affidavit that would 6 31 cause the ballot to be rejected, the commissioner is to 32 contact the voter and inform the voter of the deficiency and 33 that the deficiency may be corrected by the voter by 5 p.m. on 6 34 the day before the election. 35

The bill also requires the county commissioner of elections 1 to notify an absentee voter if the voter's completed absentee 2 ballot is returned in an affidavit envelope that is unsealed 3 or that has been opened and resealed or if the ballot is not 4 enclosed in the affidavit envelope. The commissioner shall

5 allow the voter to complete another absentee ballot
6 application and a replacement ballot by 5 p.m. on the day
7 before the election.
8 The bill provides that if the voter does not correct the
9 affidavit deficiency or vote a replacement ballot, as the case
10 may be, the voter shall be allowed to vote a provisional
11 ballot at the polls.
12 Finally, the bill changes the term "ballot envelope" to
13 "affidavit envelope" to conform to the use of the term
14 "affidavit envelope" throughout the Code.
15 LSB 1851HV 82
16 sc:nh/cf/24